

PATENT

09/899,453

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: : Group Art Unit: 1751  
: Examiner:T. V. Nguyen  
Gerald F. McBrearty et al. : Confirmation No. 4097  
Serial No: 09/899,453 :  
Filed: 07/05/2001 : Customer No. 32,329  
Title: CONDUCTING A :  
PRELIMINARY WORLD WIDE WEB :  
SEARCH FOR ATTRIBUTES OF A :  
PRODUCT THROUGH PREDETERMINED :  
DATABASE SEARCH QUERIES TO :  
PREDETERMINED DATABASE WEB :  
SITES TO PROVIDE A PURCHASE :  
PROFILE OF THE PRODUCT :  
OFFERED FOR SALE BY A WEB :  
PAGE :

07-25-08

Date:

CORRECTED BRIEF ON APPEAL

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear sir:

This corrected Brief on Appeal is responsive to the  
Notification of Non-Compliant Brief due to absence of  
signature dated July 3, 2008.

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This is an Appeal from the Final Rejection of claims 1, 3-5, 7, 9-11, 13, 15-17, 19 and 20 of this Application dated September 19, 2007. Section VIII. Appendix containing a copy of each of the Claims is attached.

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I. Real Party in Interest

The real party in interest is International Business Machines Corporation, the assignee of the present Application.

II. Related Appeals and Interferences

None

III. Status of Claims

**A. TOTAL NUMBER OF CLAIMS IN APPLICATION**

There are 14 claims in this Application.

**B. STATUS OF ALL THE CLAIMS**

1. Claims cancelled: 2, 6, 8, 12, 14, and 18.
2. Claims withdrawn from consideration but not cancelled: none.
3. Claims pending: 1, 3-5, 7, 9-11, 13, 15-17, 19 and 20.
4. Claims allowed: None.
5. Claims rejected: 1, 3-5, 7, 9-11, 13, 15-17, 19 and 20.

**C. CLAIMS ON APPEAL**

Claims on appeal: 1, 3-5, 7, 9-11, 13, 15-17, 19 and 20.

IV. Status of Amendments

There have been no amendments filed after the final rejection in this prosecution.

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V. Summary of Claimed Subject Matter

**Independent claim 1 is annotated as follows with respect to the Specification and Drawings.**

1. In a World Wide Web (Web) communication network [Web 50, Fig. 2, described at page 9, line 32 through page 10, line 4] with user access through a plurality of data processor controlled user interactive receiving display stations [Fig. 2, display terminal 57, described on page 9, lines 19-22], a system for buying products offered from Web sites comprising:

means at a receiving display station for displaying a Web page accessed from a Web site [Web browser 59, Fig. 2 accesses Web pages displayed on Web terminal display 56, described at page 9, lines 11-15];

means for selecting a product offered for sale from said Web page [Fig 4, user interactively selects products 66 and 68, page 11, lines 8-12];

means for storing at said receiving station, a set of predetermined search queries respectively to each of a set of Web database sites for data related to attributes of a selected product [Fig. 2, Web browser 59 provides for storage of search queries to provide pre-purchase product profiles, page 10, lines 15-30]; and

means responsive to a selection of a product for automatically sending said search queries to said Web database sites wherein a purchase profile of the product is provided [Figs. 3 and 4, user presses checkout button 72, Fig. 3 for products 68 and 69 activates search queries provide a Purchase Profile of the products shown in Fig. 4, described at page 11, lines 14-24].

**Independent claim 7 is annotated as follows with respect to the Specification and Drawings.**

7. In a Web communication network [Web 50, Fig. 2, described at page 9, line 32 through page 10, line 4] with user access through a plurality of data processor controlled user interactive receiving display stations [Fig. 2, display terminal 57, described on page 9, lines 19-22], a method for buying products offered from a plurality of Web sites comprising:

displaying a Web page accessed from a Web site at a receiving display station [Web browser 59, Fig. 2 accesses Web pages displayed on Web terminal display 56, described at page 9, lines 11-15];

selecting a product offered for sale from said Web page [Fig 4, user interactively selects products 66 and 68, page 11, lines 8-12];

storing at said receiving station, a set of predetermined search queries respectively to each of a set of Web database sites for data related to attributes of a selected product [Fig. 2, Web browser 59 provides for storage of search queries to provide pre-purchase product profiles, page 10, lines 15-30]; and

automatically sending said search queries to said Web database sites responsive to a selection of a product wherein a purchase profile of the product is formed [Figs. 3 and 4, user presses checkout button 72, Fig. 3 for products 68 and 69 activates search queries provide a Purchase Profile of the products shown in Fig. 4, described at page 11, lines 14-24].

**Independent claim 13 is annotated as follows with respect to the Specification and Drawings.**

13. A computer program having code recorded on a computer readable medium for buying products offered from a plurality of Web sites in a Web communication network with user access via a plurality of data processor controlled interactive receiving display stations [the creation and storage of the computer program on a readable medium is described in general on page 12, lines 1-8 in reference to Fig. 5, and at page 14, lines 14-22] , said program comprising:

means at a receiving display station for displaying a Web page accessed from a Web site [Fig. 5, step 83, described at page 12, lines 7-12];

means for selecting a product offered for sale from said Web page [Fig. 5, step 84, described at page 12, lines 12-14];

means for storing at said receiving station, a set of predetermined search queries respectively to each of a set of Web database sites for data related to attributes of a selected product [Fig. 5, step 85, described at page 12, lines 14-20]; and

means responsive to a selection of a product for automatically sending said search queries to said Web database sites [Fig. 5, step 86, described at page 12, lines 20-23] wherein a purchase profile of the product is formed [Fig. 5, step 87, described at page 12, lines 23-27].

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**Dependent claim 19, the subject of the 35 USC 112  
Rejection is annotated as follows.**

19. The computer program of claim 13 wherein said Web browser program further includes a plug-in program including: (the plug-in for the browser is described from page 12, line 28 to page 13, line 9 with respect to Fig. 5, steps 85 and 86)

said means for storing a set of predetermined search queries respectively to each of a set of Web database sites for data related to attributes of a selected product (page 12, line 33 - page 13, line 3, step 85, Fig. 5); and

said means responsive to a selection of a product for automatically sending said search queries to said Web database sites (page 12, line 33 - page 13, line 3, step 86, Fig. 5).

VI. Grounds of Rejection to be Reviewed on Appeal

Claims 19 and 20 are rejected under 35 USC 112, second paragraph as failing to particularly point out and distinctly claim the subject matter of the invention.

Claims 1, 3-5, 7, 9-11, 13, 15-17, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ng (US6,405,175).

VII. Argument

**The Rejection of Claims 19 and 20 are rejected under 35 USC 112, second paragraph as failing to particularly point out and distinctly claim the subject matter of the invention is Respectfully Traversed.**

The claims cover a programming implementation wherein two elements of the program i.e. storing the predetermined queries and automatically send the queries are implemented in a plug-in for the browser. As set forth in the above annotation of claim 19, such plug-ins for Web browsers are known and functionally understood in the browser art. Accordingly, it is submitted that subject matter covered in claims 19 and 20 would be clearly understood by one skilled in the art.



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**The Rejection of Claims 1, 3-5, 7, 9-11, 13, 15-17, and 19-20 under 35 U.S.C. 103(a) as being Unpatentable over Ng (US6,405,175) is Respectfully Traversed.**

Both the Ng patent and the present invention relate to getting product information via the Web. However, Ng relates to product information which is quite different from that of the present invention, and the method which the present invention uses to access product information from the Web is quite different from and unobvious from the method described in Ng.

The present invention provides the potential purchaser with a profile of the product that the purchaser is considering. The present invention provides an implementation for buying products offered from Web sites comprising means at a receiving display station for displaying a Web page accessed from a Web site; means for selecting a product offered for sale from said Web page;

means for storing at said receiving station, a set of predetermined search queries respectively to each of a set of Web database sites for data related to attributes of a selected product; and means responsive to a selection of a product for automatically sending these search queries to said Web database sites to thereby provide a purchase profile of the product.

Examiner concedes that Ng fails to disclose both the means for storing a set of predetermined search queries respectively to each of a set of Web database sites for data related to attributes of a selected product, and the means

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for automatically sending these search requests to Web database sites to obtain an attribute profile of the purchaser selected product.

However, Examiner argues that there is a disclosure in Ng at col 15, lines 61-63 that a shopping scout Web browser may be optimized for each case. From this very general statement, Examiner concludes that it would be obvious for the browser to be set up to control the storage of a predetermined set of search queries which in turn would be automatically sent out in response to a purchaser selecting a product. Appellants submit that the claimed invention is not obvious from this general teaching in Ng.

The Ng system provides a system for soliciting information on new products from purchasers of these products. The Ng system rewards such purchasers when they make such entries. This entered information is stored and available to others who may search for product information.

However, these subsequent searches for product information by interested parties appear to be conventional searches for product information. There is no suggestion in Ng's product information searches of storing a set of predetermined search queries respectively to each of a set of Web database sites for data related to attributes of a selected product, or for automatically sending these predetermined search queries to Web database sites to obtain an attribute profile of the purchaser selected product.

All col 15, lines 61-63 of Ng discloses is that a shopping scout Web browser may be optimized for each case for ease of use and efficiency. Appellants fail to understand how such a very general statement on Web browser optimization could be suggestive of storing a predetermined

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set of search queries and automatically sending such stored queries in response to a purchaser selecting a product.

In this connection, Examiner also cites Col. 11, lines 2-20. There is nothing in this section or elsewhere to indicate the storage of a set of predetermined queries to each of a set of Web database sites which are sent automatically in response to the selection of a product to purchase by a Web user. All of the search queries described in column 11 in Ng are not predetermined, and not automatically sent in response to a user product selection.

All searches in Ng are optionally initiated and interactively set up by the user.

Accordingly, it is respectfully submitted that all of the claims on appeal: claims 1, 3-5, 7, 9-11, 13, 15-17, and 19-20 are unobvious and, thus, patentable under 35 U.S.C. 103(a) over Ng (US6,405,175).

**Response to specific points Made in the Final Rejection**

- Examiner notes that Appellants' arguments with respect to the claims are not consistent with the claim language. Examiner points out that while Appellants present arguments with respect to the "purchase profile of the product" the claims, e.g. claim 1, recite "purchase profile of the purchaser". It is submitted that Examiner has not noted the complete phrase in Appellants' argument in the last response dated March 12, 2007. The phrase, at page

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8, lines 28-30 which Examiner is referring to, actually reads:

"...automatically sending these predetermined search queries to Web database sites to obtain an attribute profile of the purchaser selected product."

Thus, it is noted that Appellants' argument does argue that the profile is of the selected product and not of the purchaser.

- Also with respect to the claimed expedient of automatically sending the predetermined set of search queries in response to the selection of a product, Examiner specifically argues that while Ny is silent with respect to such automatic responsive sending,

"....examiner respectfully disagrees as the claim would have been obvious because a particular known technique (the automation of a query) was recognized as part of the ordinary capabilities of skilled artisan." (last paragraph, page 7, Final Rejection)

Appellants do not know that the "automation of a query" could be held to be universally known to those skilled in the art. Is the Examiner taking "Official Notice" of this status? The vagueness of the Examiner's statement presents Appellants with difficulty in trying to argue patentability. Appellants concede that automation has been used for specific purposes in the user interactive computer arts. However, the relative advantages and disadvantages of

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automation are dependent upon the implementation. In appellants claimed invention, the automation is responsive to the user selection of a product, and automatically send as a set of search queries to Web database sites to procure profile of the selected product. Appellants will not concede that Examiner's generalization with respect to automation results making obvious Appellants' claimed responsive automation of search queries to obtain product information.

Conclusion

In view of the foregoing, it is submitted that claims 1, 3-5, 7, 9-11, 13, 15-17, and 19-20 are unobvious and, thus, patentable under 35 U.S.C. 103(a) Ng (US6,405,175).

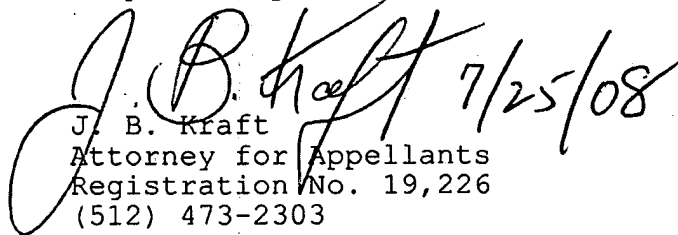
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Accordingly, the Board of Appeals is respectfully requested to reverse the final rejection and find claims 1, 3-5, 7, 9-11, 13, 15-17, and 19-20 in condition for allowance.

Respectfully submitted,

 7/25/08  
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VIII. Claims Appendix

1 1. In a World Wide Web (Web) communication network with  
2 user access through a plurality of data processor controlled  
3 user interactive receiving display stations, a system for  
4 buying products offered from Web sites comprising:  
5 means at a receiving display station for displaying a  
6 Web page accessed from a Web site;  
7 means for selecting a product offered for sale from  
8 said Web page;  
9 means for storing at said receiving station, a set of  
10 predetermined search queries respectively to each of a set  
11 of Web database sites for data related to attributes of a  
12 selected product; and  
13 means responsive to a selection of a product for  
14 automatically sending said search queries to said Web  
15 database sites wherein a purchase profile of the product is  
16 provided.

1 3. The Web system for buying products of claim 1 wherein  
2 one of said search queries is sent to a database Web site  
3 providing data on the quality of the Web sites offering  
4 products.

1 4. The Web system for buying products of claim 1 wherein  
2 one of said search queries is sent to a database Web site  
3 providing data on the quality of the selected product.

1 5. The Web system for buying products of claim 1 wherein  
2 one of said search queries is sent to a database Web site  
3 providing data on the comparative price of the selected  
4 product at a plurality of Web sites offering the product.

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1 7. In a Web communication network with user access through  
2 a plurality of data processor controlled user interactive  
3 receiving display stations, a method for buying products  
4 offered from a plurality of Web sites comprising:  
5 displaying a Web page accessed from a Web site at a  
6 receiving display station;  
7 selecting a product offered for sale from said Web  
8 page;  
9 storing at said receiving station, a set of  
10 predetermined search queries respectively to each of a set  
11 of Web database sites for data related to attributes of a  
12 selected product; and  
13 automatically sending said search queries to said Web  
14 database sites responsive to a selection of a product  
15 wherein a purchase profile of the product is formed.

1 9. The method for buying products of claim 7 wherein one of  
2 said search queries is sent to a database Web site providing  
3 data on the quality of the Web sites offering products.

1 10. The method for buying products of claim 7 wherein one  
2 of said search queries is sent to a database Web site  
3 providing data on the quality of the selected product.

1 11. The method for buying products of claim 7 wherein one  
2 of said search queries is sent to a database Web site  
3 providing data on the comparative price of the selected  
4 product at a plurality of Web sites offering the product.

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1 13. A computer program having code recorded on a computer  
2 readable medium for buying products offered from a plurality  
3 of Web sites in a Web communication network with user access  
4 via a plurality of data processor controlled interactive  
5 receiving display stations, said program comprising:  
6 means at a receiving display station for displaying a  
7 Web page accessed from a Web site;  
8 means for selecting a product offered for sale from  
9 said Web page;  
10 means for storing at said receiving station, a set of  
11 predetermined search queries respectively to each of a set  
12 of Web database sites for data related to attributes of a  
13 selected product; and  
14 means responsive to a selection of a product for  
15 automatically sending said search queries to said Web  
16 database sites wherein a purchase profile of the product is  
17 formed.

1 15. The computer program of claim 13 wherein one of said  
2 search queries is sent to a database Web site providing data  
3 on the quality of the Web sites offering products.

1 16. The computer program of claim 13 wherein one of said  
2 search queries is sent to a database Web site providing data  
3 on the quality of the selected product.

1 17. (original) The computer program of claim 13 wherein one  
2 of said search queries is sent to a database Web site  
3 providing data on the comparative price of the selected  
4 product at a plurality of Web sites offering the product.

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1 19. The computer program of claim 13 wherein said Web  
2 browser program further includes a plug-in program  
3 including:

4       said means for storing a set of predetermined search  
5 queries respectively to each of a set of Web database sites  
6 for data related to attributes of a selected product; and  
7       said means responsive to a selection of a product for  
8 automatically sending said search queries to said Web  
9 database sites.

1 20. The computer program of claim 19 further including:

2       means for adding or deleting predetermined search  
3 queries to said set of queries; and  
4       means for adding or deleting Web database sites to said  
5 set of Web database sites.

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IX. Evidence Appendix

There was no evidence presented in the prosecution of  
the present Application.

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X. Related Proceedings Appendix

There are no proceedings related to the present proceedings.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,453	07/05/2001	Gerald Francis McBrearty	AUS9-2001-0338-US1	4097

7590

07/03/2008

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 07/03/2008

Please find below and/or attached an Office communication concerning this application or proceeding.

ENTERED

<b>Notification of Non-Compliant Appeal Brief</b> <b>(37 CFR 41.37)</b>	Application No. 09/899,453	Applicant(s) MCBREARTY ET AL.	
	Examiner T.V. Nguyen	Art Unit 1751	


*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

The Appeal Brief filed on 20 June 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph; and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

The brief is missing a signature.

  
 LASHAWN HINTON  
 PATENT APPEAL CENTER SPECIALIST